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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,252	08/03/2001	Jen-Shou Tseng	JCLA7248	7618

43831 7590 05/01/2006

BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
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BEAVERTON, OR 97006

EXAMINER

VILLECCO, JOHN M

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/922,252	TSENG ET AL.	
	Examiner	Art Unit	
	John M. Villecco	2622	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1,2,4,5 and 7-10.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


DAVID OMETZ
SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE: Applicant has amended claims 4, 7, and 9 to include the limitation of measuring the vibration by directly detecting vibration of a light sensing device. This newly added limitation constitutes a new issue that would require further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding applicant's arguments that claims 9 and 10 do not represent new matter as presented by the examiner in the 112, 1st paragraph rejection in the final rejection, the examiner maintains that the new matter rejection is appropriate. Applicant argues that the sentence found on page 5, lines 15-16 of the specification inherently discloses a storage medium, since it is inherent that PID controllers have storage mediums. Applicant provides several hand-picked definitions of PID which support this assertion. However, according to the applicant's own argument citing the Wikipedia website (http://en.wikipedia.org/wiki/PID_controller), a PID controller does not necessarily have to include a storage medium.

"A PID loop can be implemented with any physical system that can produce ratiometric behavior and integration."

"In the early history of automatic process control the PID controller was implemented as a mechanical device, often energized by compressed air. Mechanical systems (once the cheapest) can use a lever, spring and a mass. Pneumatic controllers were once common, but have been largely replaced by digital electronic controllers.

Electronic analog controllers are now very cheap, and can be made from a solid-state or tube amplifier, a capacitor and a resistance. Electronic analog PID control loops are often found within more complex electronic systems, for example, the head positioning of a disk drive, the power conditioning of a power supply, or even the movement-detection circuit of a modern seismometer."

This teaching directly contradicts the applicant's position that a PID controller inherently has to include a storage medium. The fact that analog PID controllers can be made with only an amplifier, capacitor, and resistance teaches that storage mediums are not inherent in a PID controller. Therefore, since the specification makes no specific reference to a storage medium included in the PID controller, this constitutes new matter. For the reasons stated above the rejection of claims 9 and 10 under 112, 1st paragraph will be maintained.

As for the rejection of claims 1, 2, 4, 5, 7, and 8 under 35 U.S.C. 102(e), applicant argues that the examiner has failed to give the phrase "camera body" its ordinary meaning as described in the MPEP §2111.01. The examiner contends the use of the camera body (10) and film/CCD (16) as a light sensing device is reasonable. The phrase "light sensing device" is an extremely broad term and the examiner is interpreting the combination of the camera body and the film/CCD to be the light sensing device. In section 2111 of the MPEP, the examiner is instructed to give terms their broadest reasonable interpretation. Furthermore, the applicant argues that the examiner should give the phrase "camera body" its ordinary meaning. Applicant is reminded that in the final rejection the light sensing device was interpreted to be the combination of the camera body and the film/CCD. Thus, the combination of the camera body and the film/CCD is interpreted to be the light sensing device. Furthermore, the examiner believes it is reasonable to interpret the camera body and film/CCD as a light sensing device.

Additionally, applicant contends that the examiner has made contrary statements as to whether or not Hayakawa discloses that the vibration sensor is mounted on the light sensing device. More specifically, applicant argues that since the examiner has stated that Hayakawa does not disclose how the vibration sensor is mounted then this cannot result in a 102 rejection. However, in the examiner's rejection under 102(e), an inherency statement has been made stating that it is inherent that the vibration sensor is mounted somewhere on the camera body since this is the only way vibration of the camera body can be measured. Thus, based upon the principles of inherency, this rejection can still be made a 102 rejection. See section 2112 of the MPEP.

For the reasons stated above, the rejections from the previous office action will be maintained.